

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW LEE PHILLIPS,

Plaintiff,

v.

Case No. 2:23-cv-00956-MLG-DLM

GALACTIC ENTERPRISES, LLC,
a foreign limited liability company,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE’S PROPOSED
FINDINGS AND RECOMMENDED DISPOSITION**

Magistrate Judge Damian Martinez filed the Proposed Findings and Recommended Disposition (“PFRD”) on March 4, 2024. Doc. 15. This PFRD recommends the Court grant Defendant Galactic Enterprises, LLC’s (“Galactic”), Motion to Dismiss, Doc. 3. Doc. 15 at 1. As a consequence, the PFRD recommends the Court dismiss *pro se* Plaintiff Matthew Lee Phillips’s claims asserting violations of the Second and Fifth Amendments and Title VII of the Civil Rights Act of 1964 with prejudice. *Id.* The PFRD further recommends the Court dismiss Phillips’s state law claims for wrongful termination and breach of implied contract without prejudice. *Id.* The PFRD notified the parties of their ability to file objections within fourteen days and that failure to do so waived appellate review. *Id.* at 17. Phillips timely filed his Reply to Proposed Findings on March 18, 2024. Doc. 17. Based on the contents and timing of this filing, the Court treats Phillips’s “reply” as timely objections to Judge Martinez’s PFRD.

Pursuant to 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), the Court has conducted a *de novo* review of the record and of the PFRD and considered the relevant objections. For the Court to reconsider Judge Martinez’s proposed findings and recommendations,

Phillips must show that the PFRD “is clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A). The Court finds no reason either in law or fact to depart from Judge Martinez’s proposed recommendations and findings and will adopt the conclusions memorialized in the PFRD. Doc. 15. The Court will enter a separate judgment pursuant to Federal Rule of Civil Procedure 58.

It is therefore ordered as follows:

1. Phillips’s objections to the PFRD are overruled. Doc. 17.
2. Judge Martinez’s Proposed Findings and Recommended Disposition, Doc. 15, is adopted.
3. Phillips’s claims for violations of his Second and Fifth Amendments rights and Title VII are dismissed with prejudice.
4. Phillips’s wrongful termination and breach of implied contract claims under New Mexico law are dismissed without prejudice.

A handwritten signature in dark ink, appearing to read "Matthew L. Garcia", is written over a horizontal line.

UNITED STATES DISTRICT JUDGE
MATTHEW L. GARCIA